

TERMS AND CONDITIONS

1. Monitoring Services. Monitoring service consists solely of monitoring service personnel alerting the persons, entities or agencies identified by Subscriber in writing to Company ("Responders") upon the monitoring facility's receipt of data or other communication from the System reporting conditions that require assistance (a "Response Condition"). You understand, acknowledge and agree that (a) following receipt of a Response Condition but before alerting any Responders, Company may, in its sole and absolute discretion and without any liability, contact or attempt to contact the premises as frequently as Company deems appropriate to verify the need to alert Responders to the Response Condition and (b) after receiving oral advice from anyone at the premises to disregard the Response Condition, Company may, in its sole and absolute discretion and without any liability, refrain from alerting the Responders or advise the Responders of the receipt of oral advice to disregard the Response Condition.

2. LIMITATION OF LIABILITY. SUBSCRIBER UNDERSTANDS, ACKNOWLEDGES AND AGREES THAT SHOULD THERE ARISE ANY LIABILITY ON THE PART OF COMPANY OR ITS OFFICERS, DIRECTORS, SHAREHOLDERS, MEMBERS, PARTNERS AND EMPLOYEES (COLLECTIVELY, "REPRESENTATIVES") FOR ANY PERSONAL INJURY, HEALTH RELATED EVENT, LOSS, DAMAGE OR EXPENSE INCLUDING, WITHOUT LIMITATION OR EXAMPLE, ANY LIABILITY ARISING OUT OF OR FROM CLAIMS IN CONNECTION WITH SUBROGATION, CONTRIBUTION OR INDEMNIFICATION, DUE TO ANY REASON INCLUDING, WITHOUT LIMITATION OR EXAMPLE, COMPANY'S OR REPRESENTATIVES' ACTIVE OR PASSIVE SOLE, JOINT OR SEVERAL NEGLIGENCE OF ANY KIND OR DEGREE THAT OCCURS BEFORE OR AFTER THE SIGNING OF THIS AGREEMENT OR BREACH OF CONTRACT, ALL SUCH LIABILITY SHALL BE LIMITED TO THE MAXIMUM SUM OF \$1,000.00 COLLECTIVELY FOR COMPANY AND REPRESENTATIVES. YOU MAY OBTAIN A HIGHER LIMITATION OF LIABILITY FROM US FOR AN ADDITIONAL PERIODIC CHARGE. IF YOU ELECT THIS OPTION, WE WILL ATTACH A RIDER TO THIS AGREEMENT WHICH WILL SET FORTH THE AMOUNT OF THE LIMITATION OF LIABILITY AND THE AMOUNT OF THE INITIAL ADDITIONAL CHARGE. AGREEING TO THE LIMITATION OF LIABILITY DOES NOT MEAN THAT WE ARE AN INSURER.

3. Subscriber Acknowledgments. You understand, acknowledge and agree as follows:

3.1 The System requires electrical service and traditional hard-wired telephone service to consistently operate; voice over internet protocol ("VOIP") and other broadband communication services may not permit the System to consistently communicate with Company's monitoring facility. Such services require testing and verification by the carrier that they are compatible with Company's equipment.

3.2 You must test the System at least monthly and whenever modifications are made to the electrical or telephone services at your premises.

3.3 The System uses radio frequency waves ("RF Waves") to communicate between accessories (e.g., between the help button and the personal response console). Certain objects in the premises and RF Waves from other sources (e.g., microwave ovens, television sets, radios, household appliances, cordless telephones, cellular telephones, lightning, static electricity or other electrical discharges) may cause interference resulting in malfunctions of the System.

3.4 The System will not communicate with Company's monitoring facility if a telephone connected to the same telephone line which the System uses to communicate with Company's monitoring facility is in use, off the hook, or not properly in its cradle.

3.5 When the System is in use, an alternative telephone line at the premises or other mode of communication, e.g. cellular telephone, is necessary to communicate by telephone with others.

3.6 The System is not infallible and the transmission and receipt of communications from the System may be interrupted or otherwise circumvented.

4. Waiver of Subrogation. You hereby waive any rights your insurance Company may have to be reimbursed by Company or Representatives for money paid to you or on your behalf.

5. INDEMNIFICATION. IIF ANYONE OTHER THAN YOU, INCLUDING, WITHOUT LIMITATION, YOUR INSURANCE COMPANY, ASKS COMPANY OR REPRESENTATIVES TO PAY FOR ANY LOSS, DAMAGE, COST OR EXPENSE (INCLUDING, WITHOUT LIMITATION OR EXAMPLE, ECONOMIC LOSSES, PROPERTY DAMAGE, PERSONAL INJURY, HEALTH RELATED EVENTS OR DEATH) DUE TO ANY REASON INCLUDING, WITHOUT LIMITATION OR EXAMPLE, THE ACTIVE OR PASSIVE SOLE, JOINT OR SEVERAL NEGLIGENCE OF ANY KIND OR DEGREE OF COMPANY OR REPRESENTATIVES, OR THERE IS A CLAIM FOR SUBROGATION, INDEMNIFICATION OR CONTRIBUTION, YOU AGREE TO PAY (WITHOUT ANY CONDITION THAT COMPANY OR REPRESENTATIVES FIRST PAY) FOR ALL LOSSES, DAMAGES, COSTS AND EXPENSES INCLUDING, WITHOUT LIMITATION, ATTORNEYS' FEES, WHICH MAY BE ASSERTED AGAINST OR INCURRED BY COMPANY OR REPRESENTATIVES IN CONNECTION WITH ANY AND ALL SUCH CLAIMS.

6. THE SYSTEM AND SERVICE HAVE CERTAIN LIMITATIONS. IN CONSIDERATION FOR THE PROVISION OF THE SYSTEM AND SERVICE, YOU ACKNOWLEDGE THAT WE DO NOT REPRESENT OR WARRANT THAT THE SYSTEM OR MONITORING SERVICE WILL PREVENT DEATH, BODILY OR PERSONAL INJURY, OR ANY OTHER INJURY OR DAMAGE TO YOU OR OTHERS WHO USE THE SYSTEM. WE MAKE NO REPRESENTATION OR WARRANTY AS TO THE PROMPTNESS OF OUR RESPONSE, AND WE HAVE NO CONTROL OVER THE RESPONSE TIME OR CAPABILITY OF ANY AGENCY OR PERSON WHO MAY BE NOTIFIED AS A RESULT OF THE SYSTEM BEING USED. YOU FURTHER UNDERSTAND THAT WE MAY BE NEGLIGENT IN PROVIDING THE SERVICE, AND MAY FAIL TO PROPERLY RESPOND TO THE RECEIPT OF AN EMERGENCY SIGNAL FROM THE SYSTEM, OR THAT THE SYSTEM MAY FAIL TO FUNCTION PROPERLY. YOU AGREE THAT IF WE WERE TO HAVE ANY LIABILITY GREATER THAN THAT AGREED TO BY YOU PURSUANT TO SECTION 5 OF THIS AGREEMENT, WE COULD NOT AND WOULD NOT PROVIDE THE SERVICE. YOU ACKNOWLEDGE AND AGREE THAT YOU WILL CONTINUOUSLY MAINTAIN LIFE, MEDICAL, DISABILITY, LONG TERM CARE, AND OTHER INSURANCE AS APPROPRIATE FOR THE PROTECTION OF YOURSELF AND OTHERS WHO MAY USE THE SYSTEM. YOU UNDERSTAND THAT THERE ARE ALTERNATIVES AVAILABLE TO YOU SUCH AS 911 EMERGENCY TELEPHONE SERVICE AND YOU HAVE SELECTED THIS SERVICE WITH A FULL UNDERSTANDING OF ITS LIMITATIONS, AND THE LIMITATION OF OUR LIABILITY SET FORTH IN SECTION 5.

7. False Alarms and Forced Entry. If the System is activated for any reason, you shall (i) pay, without reimbursement from Company, or (ii) reimburse Company, for any fines, fees, costs, expenses or penalties assessed against you or Company by any court or governmental agency. You must provide access to the premises to Responders. If you fail to provide access, Responders may use forcible means to enter the premises which may result in damage to the premises, all of which damage, cost and expense shall be borne solely by you without recourse to Company or Representatives. Company has no control over response times for Responders. You acknowledge, understand and agree that you may be able to reach Responders or a municipal paramedic or private ambulance service by telephone including, in many areas, by dialing 911 in addition to relying on the service. You hereby release Company and Responders for and from all claims, losses and damages that may arise from any forced entry or any delayed response by Responders.

8. Binding Agreement. This Agreement is binding on Subscriber's heirs, executors and administrators.

9. Applicable Law. This Agreement shall be governed by and construed according to the laws of the state of set forth in Company's address without reference to its conflicts of law rules. The interpretation of this Agreement shall not be construed against the drafter.

10. Assignment. This Agreement is not assignable by you. This Agreement or any portion thereof is assignable by Company in its sole discretion.

11. No Waiver of Breach. If you or Company shall waive any breach of this Agreement it shall not be construed as a waiver of any subsequent breach. Your rights and Company's rights hereunder shall be cumulative, and any rights hereunder may be exercised concurrently or consecutively and shall include all remedies available even though not expressly referred to herein.

12. Suspension of Service. You understand and acknowledge that Company's obligations are automatically suspended without notice to you and you hereby waive all claims and release Company for all liability, loss, damage and expense in the event of (i) a breach of this Agreement by you, or (ii) the monitoring facility, communications equipment or network or the System is destroyed, damaged, inoperable or malfunctions for any reason whatsoever, or (iii) any other reason or cause. In each such event, the duration of such suspension shall be until the reason for the suspension is cured. Except for any suspension of service due to a breach of this Agreement by you, you shall be entitled to reimbursement of the unearned charge paid for the period of the suspension on your request and this shall be the limit of Company's liability.

13. Integrated Agreement; Modifications. This Agreement contains the entire agreement between you and us concerning the transactions described in this Agreement and supersedes all prior or current negotiations, commitments, contracts, express or implied, warranties, express or implied, statements and representations, written or oral, pertaining to such matters, all of which are merged into this Agreement. NEITHER PARTY HAS AUTHORITY TO MAKE OR CLAIM ANY REPRESENTATION, TERM, PROMISE, CONDITION, STATEMENT, WARRANTY, OR INDUCEMENT (COLLECTIVELY, "INDUCEMENT") WHICH IS NOT EXPRESSED HEREIN. EACH PARTY REPRESENTS THAT IT/HE/SHE IS NOT RELYING ON ANY INDUCEMENT IN SIGNING THIS AGREEMENT WHICH IS NOT EXPRESSED IN THIS AGREEMENT. All changes or amendments to this Agreement must be in writing and signed by all parties to be binding on the parties.

14. Valid Agreement. Should any provision hereof (or portion thereof), or its application to any circumstances, be held illegal, invalid or unenforceable to any extent, the validity and enforceability of the remainder of the provision and this Agreement, or of such provisions as applied to any other circumstances, shall not be affected thereby, and shall remain in full force and effect as valid, binding and continuing.

15. Acceptance. This Agreement becomes binding upon Company only when signed by an authorized representative of Company, who must be a Corporate Officer if any of the printed terms and conditions have been interlineated, altered or substituted by other wording. This Agreement is binding on the heirs, executors, administrators, successors and assigns of the parties, and shall be governed by and construed according to the laws of the state set forth in Company's address.

16. Intended Third Party Beneficiaries. You acknowledge, understand and agree that the provisions of this Agreement inure to the benefit of and are applicable to any subcontractors engaged by Company to provide any service set forth herein to you, and bind you to such subcontractor(s) with the same force and effect as they bind you to Company.

17. WAIVER OF JURY TRIAL. EACH PARTY HEREBY WAIVES ANY RIGHT TO TRIAL BY JURY IN ANY SUIT, ACTION OR OTHER LEGAL PROCEEDING BROUGHT BY EITHER PARTY ARISING OUT OF OR FROM, IN CONNECTION WITH, RELATED TO, AS A CONSEQUENCE OF OR RESULTING FROM THIS AGREEMENT.

18. Contractual Limitation of Actions. All claims, actions or proceedings by or against Company or Representatives must be commenced in court within one (1) year after the cause of action has accrued, without judicial extension of time, or said claim, action or proceeding is barred. The time period in this paragraph must be strictly complied with.

19. Recording Consent. You, for yourself and as the authorized agent of your family, guests, agents, servants, representatives and employees (individually and collectively, "Any Person"), hereby consent to Company intercepting, recording, retrieving, reviewing, copying, using and, **subject to Company's privacy policy**, disclosing the contents of all telephone, video, wire, oral, electronic and other forms of transmission or communication to which Company and you or Any Person are parties.

20. Headings. The paragraph titles used herein are for convenience of the parties only and shall not be considered in construing the provisions of this Agreement.

21. Internet Services. Company hereby grants to Subscriber a non-exclusive, non-transferable license to use the Company's *[website]* *[internet site]* *[and]* *[software]* to access, input, delete and modify Information through the Internet. Except for Subscriber's (a) failure to keep confidential all Information, passwords, etc., (b) use of the license or the Information in any manner that negatively affects Company, (c) use of the license or the Information for any illegal purpose, or (d) violation of any applicable law, this license shall continue and be coextensive with the term of this Agreement. Subscriber shall be solely and absolutely responsible for the Information which it inputs, deletes or modifies. Subscriber agrees that upon termination of this Agreement or termination or suspension of the license by Company, Company may immediately, and without notice, disable Subscriber's access to the *[website]* *[internet site]* *[and]* *[software]* and cancel all passwords or other access codes.

22. System Use. Subscriber understands, acknowledges and agrees that certain laws, rules, regulations and ordinances of governmental authorities, utilities, businesses, homeowners associations and other entities may affect Subscriber's rights under this Agreement without any liability of Company. Subscriber agrees to obtain and maintain all licenses, permits and other authorizations or consents necessary for the installation and use of the System including, without limitation or example, notice to municipal Responders.

23. Start of Services. Services will commence after (i) all required information to be provided by Subscriber is entered into the computer system for Company's monitoring facility; (ii) an acceptable test of the System received by Company's monitoring facility; and (iii) receipt of a copy of this agreement signed by you.

24. Electronic Media. You agree that a copy of (i) this Agreement and any amendments or documents related to this Agreement, and (ii) the signatures affixed to the documents referenced in clause (i) hereof may be transmitted and delivered by facsimile or electronic mail and that all such documents shall be deemed to be originals for all purposes and given the legal force and effect as originals. In addition, Company may scan or otherwise convert the documents referenced above into an electronic data file and/or digital media file, and that a copy of any such document produced from such electronic or media file shall be deemed to be an original for all purposes and given the same legal force and effect as the original.

ACKNOWLEDGMENTS. BY SIGNING THIS AGREEMENT, YOU (I) UNDERSTAND THAT THIS IS A BINDING AGREEMENT. (II) **ACCEPT THE LIMITATION OF LIABILITY AND INDEMNITY PARAGRAPHS OF THIS AGREEMENT;** AND (III) ACKNOWLEDGE HAVING RECEIVED AND READ A COPY OF THE ENTIRE AGREEMENT BEFORE SIGNING. **NO WARRANTIES. THERE ARE NO WARRANTIES, EXPRESS OR IMPLIED, WHICH EXTEND BEYOND THE DESCRIPTION HEREOF, INCLUDING ANY IMPLIED WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE.**